

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TERRY J. KURTZHALS,)	
)	
Plaintiff,)	4:08CV3018
)	
V.)	
)	
ALAN GRELL and CHAD HEIN, in)	MEMORANDUM AND ORDER
their individual and official)	
capacities, and the CITY OF)	
LINCOLN, NEBRASKA,)	
)	
Defendants.)	
)	

The defendants have filed a notice of removal, (filing 13), "to remove the action docketed in the District Court of Lancaster County, Nebraska, at Case No. CI 07-3267 to the United States District Court for the District of Nebraska." The notice of removal was filed in the docket of the above-captioned case, which was previously filed by the plaintiff in this forum. The notice of removal and its attached state court pleadings indicate that the plaintiff's complaint filed in the Lancaster County District Court is closely related to the plaintiff's complaint filed in this case. However, the plaintiff's federal complaint seeks recovery under 42 U.S.C. § 1983 and names not only the City of Lincoln, but also Grell and Hein in their official and individual capacities as defendants.

A defendant cannot use the federal removal statutes to effectively consolidate related federal and state cases, both of which were filed by the plaintiff, without affording the plaintiff an opportunity to be heard and in the absence of a court order. Accordingly, the court interprets the defendants' "Notice of Removal to Federal Court" as merely notifying the federal court that parallel litigation is pending in the District

Court of Lancaster County, Nebraska. The defendants' notice of removal filed in this case did not remove Case No. CI 07-3267 from the District Court of Lancaster County, Nebraska to this forum.

IT THEREFORE HEREBY IS ORDERED:

1. The defendants' notice of removal, (filing 13), did not remove Lancaster County District Court Case No. CI 07-3267 to this forum.
2. The Clerk shall mail a copy of this order to the Clerk of the District Court of Lancaster County, Nebraska.

DATED this 2nd day of April, 2008.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge